

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

JOHN T. LAMONT and PRESTON POULTER,	§ § §	
Plaintiffs,	§ § §	
v.	§	Civil Action No. 3:21-CV-1176-K
DEAN ASSAF A/K/A DA TALK; VICTORIA KUNDERT A/K/A VIKKIVERSE, AND ETHAN VAN SCIVER,	§ § § § §	
Defendants.	§ §	

**ORDER**

Federal courts are vested with subject-matter jurisdiction over all civil actions “arising under the Constitution, laws, or treaties of the United States,” or where the case in controversy exceeds \$75,000 and is between citizens of different states, or between citizens of a state and citizens or subjects of a foreign state. 28 U.S.C. §§ 1331, 1332(a)(1)–(2). A federal court has no power to adjudicate claims where subject-matter jurisdiction does not exist and, consequently, must dismiss the action. *Stockman v. Fed. Election Comm’n*, 138 F.3d 144, 151 (5th Cir. 1998); *see also* FED. R. CIV. P. 12(h)(3). The Court has an obligation to examine its subject-matter jurisdiction *sua sponte* at any time. *See FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215, 230–31 (1990); *see also Ruhrgas AG v. Marathon Oil Co.*, 526 U.S. 574, 583 (1999) (“[S]ubject-matter delineations must be

policed by the courts on their own initiative even at the highest level.”). Subject-matter jurisdiction may not be waived. *See Ruhrgas AG*, 526 U.S. at 583.

Plaintiffs filed their Original Complaint (Doc. No. 1) (“Complaint”) in this Court. In the Complaint, Plaintiffs allege this Court has subject-matter jurisdiction based on diversity of the parties. The party seeking to invoke federal diversity jurisdiction has the burden to prove that the amount in controversy exceeds \$75,000. *Garcia v. Koch Oil Co. of Tex.*, 351 F.3d 636, 638–39 (5th Cir. 2003). Plaintiffs allege that “the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.” There are no other factual allegations regarding the jurisdictional amount in controversy. “[B]are allegations [of jurisdictional facts] have been held insufficient to invest a federal court with jurisdiction.” *See St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998). Therefore, Plaintiffs’ conclusory allegation that “the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs,” without more, is an insufficient jurisdictional allegation. *See id.* The Court also notes that when there are multiple plaintiffs, damages claims generally cannot be aggregated because each plaintiff must individually meet the minimal jurisdictional amount. *See generally H&D Tire & Automotive-Hardware, Inc. v. Pitney-Bowes Inc.*, 227 F.3d 326, 329–30 (5th Cir. 2000).

The allegations regarding both the amount in controversy and citizenship are determinative of whether this Court has subject-matter jurisdiction or whether this Court must dismiss the action. *See FED. R. CIV. P. 12(h)(3)* (“If the court determines

at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *Stafford v. Mobil Oil Corp.*, 945 F.2d 803, 805 (5th Cir. 1991) (“Failure adequately to allege the basis for diversity jurisdiction mandates dismissal.”). The party seeking the federal forum bears the burden of establishing subject-matter jurisdiction. *See St. Paul Reinsurance Co.*, 134 F.3d at 1253.

In light of this Order, Plaintiffs may amend their Complaint within ten (10) days from the date this Order is signed. Failure to properly establish this Court’s subject-matter jurisdiction will result in dismissal without further notice. *See* FED. R. CIV. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”).

**SO ORDERED.**

Signed May 25<sup>th</sup>, 2021.

  
\_\_\_\_\_  
ED KINKEADE  
UNITED STATES DISTRICT JUDGE